



Winston H. Hickox
*Secretary for
Environmental
Protection*

State Water Resources Control Board

Division of Water Rights

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Gray Davis
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 31512

DATE FILED: May 11, 2004

Notice is hereby given that Allen G. Nel has filed an application for a water right permit to divert water from an unnamed stream tributary to Shingle Creek thence French Creek thence Big Canyon Creek thence Cosumnes River thence Mokelumne River in El Dorado County. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Allen G. Nel
P.O. Box 28622
Las Vegas, NV 89126-2622

Description of Project

The applicant is proposing the development of an approximately 60-acre ranch with several homes, horses, pasture areas, reservoirs, and garden and vineyard areas. The applicant's property is currently covered by water right Permit 18462 (Application 25172). Permit 18462 allows the storage of 5 acre-feet (af) annually of water from the same stream systems as proposed under Application 31512. The applicant filed Application 31512 after Division staff conducted a pre-license inspection for Permit 18462. At that time it was determined that the applicant had an existing reservoir on his property that was not covered by Permit 18462.

This application proposes the direct diversion of up to 100 gallons per minute (0.22 cubic feet per second) and a maximum direct diversion quantity of 10 af annually. The applicant also proposes the diversion to storage of 5 af annually. The combined diversion amount will be 15 af per annum. The applicant proposes to use the water for domestic supply, irrigation, stockwatering, recreation and fire protection on the ranch. The diversion season will be from November 1 through June 30, which is consistent with restrictions as included in the Fully Appropriated Stream status of the Cosumnes River and its tributaries.

The storage reservoir is an on-stream reservoir that is formed by a dam seven feet in height, with a length of approximately 80 feet, and a surface area when full of approximately 1 acre. The reservoir has a capacity of approximately 5 acre-feet.

Summary of Application

California Environmental Protection Agency



County: El Dorado
Source: Unnamed stream tributary to Shingle Creek thence French Creek thence Big Canyon Creek thence the Cosumnes River
Point of
Diversion: Located within the NW ¼ of SW ¼ of Section 13, T9N, R9E, MDB&M.
Amount: 0.22 cubic feet per second of direct diversion, not to exceed a total of 10 acre-feet per year. 5 acre-feet per year of storage.
Season: November 1 through June 30 for both direct diversion and storage.
Purposes: Domestic, Irrigation, Stockwatering, Recreation and Fire Protection
Place of Use:

Use Within	Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
SW ¼	13	9N	9E	MD	55	N
SW ¼ of NW ¼	13	9N	9E	MD	5	N
				Total	20 acres net within a gross of 60 acres	

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming

interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterrights.ca.gov/forms/ or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the 40th day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-

mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Kate Gaffney by phone at (916) 341-5360 or by electronic mail at kgaffney@waterrights.swrcb.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **August 27, 2004**